THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

–

W.A.No. 50 of 2006

Date: 14.02.2006

Between:

The Managing Director, A.P. Power Generation Corporation Ltd., Vidyuth Soudha, Hyderabad & another.

…. Appellants

and

Dr.B. Rajeswar Rao

…. Respodnent

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

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–

W.A.No. 50 of 2006

JUDGMENT: *(per the Hon'ble Sri Justice B. Prakash Rao)*

Heard the learned standing for the appellants and the learned counsel appearing for the respondent and at their request the main appeal itself is taken up for disposal at the interlocutory stage.

The appellants herein, who are the employers, seek to assail the order dated 06.09.2005 allowing W.P.No.8639 of 2005 filed by the respondent-employee seeking the relief of payment of advance increments in pursuance of B.P.Ms.No.409, dated 09.05.1988.

The admitted facts are that the respondent-writ petitioner was appointed in the year 1992. Though he acquired the necessary qualifications in 1982, placing reliance on clause 3(g) of the said B.P.Ms. No.409, the appellant rejected his claim for additional benefits. Whereas, it is the case of the respondent that it is Clause (d) thereunder which should be applied, but not clause (g) and, therefore, he is entitled to such benefits.

The learned Single Judge, after considering the submissions made on either side, found favour with the respondent and thereby allowed the writ petition. Hence this appeal has been preferred by the appellants- Management.

Having heard the learned counsel on either side and having perused the material available on record, the only question that arises for consideration is as to whether having regard to B.P.Ms.No.409 dated 09.05.1988 the respondent is entitled to the benefits as claimed.

As stated above, the requisite qualifications of the respondent were acquired in 1982 and later on he was recruited in the service in 1992. Therefore, admittedly, on the date of issuance of the said B.P.Ms.No.409, the respondent was not in employment. Further, clause (g), which is sought to be relied on by the appellants, cannot make applicable to those who were not in service, but who are likely to enter into service at a later period of time. The expression 'those' will only apply to the existing employees but not to the future incumbents. Even a bare reading of clause (d) makes it amply clear that the said benefit would be admissible to those recruited directly after 01.07.1986. Since, in this case, the respondent was recruited in 1992 much later to the cut off date i.e. 01.07.1986 and irrespective of the fact whether he acquired the qualifications before 01.07.1986, he would be entitled to such benefit. Therefore, we are in entire agreement with the findings given by the learned

Single Judge.

We do not find any merits in the writ appeal and the same is accordingly dismissed. There shall be no order as to costs.

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(B.PRAKASH RAO.J)

(D. APPA RAO.J)

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Dt.14.02.2006